

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN RE:

LA TRINIDAD ELDERLY LP SE
Debtor

Case No. 19-01830 (ESL)

CHAPTER 11

**SUPPLEMENT TO MOTION FOR RECONSIDERATION OF ORDER
ON DISMISSAL (DOCKET #71 and #75)**

COME NOW, Debtor, La Trinidad Elderly LP SE (“Debtor”), through the undersigned counsel, and respectfully allege and pray as follows:

I. INTRODUCTION

1. Debtor filed a voluntary petition under Chapter 11 of the Bankruptcy Code on April 2, 2019. Docket No. 1.
2. On April 13, 2019, Loiza Ponce Holdings, LLC (“Loiza Ponce”) filed its *Motion to Dismiss Petition for Bad Faith Filing and for Absence of a Reasonable Likelihood of Rehabilitation* (the “*Motion to Dismiss*”). Docket No. 11.
3. On April 30, 2019, Debtor filed its *Opposition to the Motion to Dismiss*. Docket No. 19.
4. After some procedural developments, on September 13, 2019, this Honorable Court dismissed the bankruptcy petition through the *Opinion and Order* now subject of the instant request for reconsideration. Docket No. 71
5. On September 27, 2019, the Debtor in this case moved for reconsideration of the Order for Dismissal. Docket No. 75

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6. On October 8, 2019, the Honorable Court entered Order for creditors to state their position regarding this request for reconsideration. Docket No.76

7. On October 15, 2019, Loiza Ponce filed it's Opposition to Debtor's Motion for Reconsideration. Thereafter, and on the occurrence of procedural developments against the Debtor occurring at the Puerto Rico Supreme Court, this Opposition to the Motion to Dismiss was supplemented.

8. Through this motion, the Debtor in this case supplements and updates on the current status and business developments in the herein case which may allow this to continue as a reorganization proceeding.

II. SUPPLEMENTAL STATEMENT OF POSITION

9. The Debtor in this case supplements and calls the attention of the Honorable Court on the particular factual changes which have taken place to this date and which may alter the proffers to our Motion for Reconsideration filed on September 27, 2019, as follows.

10. As to **Fact No. 11**, on page 6: "*In light of the above reference Stipulation, the Court of First Instance, Ponce Section, entered Judgment on November 17, 2016, which Judgement is now final and unappealable*".

11. The statement of Fact No. 11, regarding finality as to this judgement is now correct. As was stated by Loiza Ponce in their Supplement to Opposition filed, the Supreme Court of Puerto Rico, did not entertained the Certiorari and thus, the State Court determination is now final and unappealable.

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12. Notwithstanding the finality of the State Court determination on the existence and nature of the Debt, Debtor still understands that the amount being claimed by Loiza Ponce is still contested and subject to dispute.

13. **Fact No. 22**, page 7: “*Loiza Ponce is a secured creditor and has a claim over Debtor’s property which amount to \$5,862,334 as of January 24, 2019, interest accruing at the per diem rate of \$946.18.*”

14. The Fact No. 22, as stated, still remains incomplete and upon due opportunity to rebut, may be found incorrect. Additional documents found in the State Court documents show substantial discrepancies with the amount of the debt due to Loiza Ponce.

15. Proof of Claim Number 7 filed on August 16, 2019, shows a balance claimed by Loiza Ponce in the amount of **\$6,082,818**. The exhibits joined to this proof of claim, specifically Part 2 attached to that document, provide no conclusive evidence to indicate the correctness of the amounts being claimed.

16. On the other hand, State Court documents obtained on the foreclosure procedure show substantial differences on the balances being claimed. We enclose as **Exhibit 1** to this Motion that certain document titled “Orden de Ejecución de Sentencia” which shows at page 6 of 12 of this exhibit a “Net Amount” for this obligation the amount of **\$3,146,031**. To compare with this writ for execution, we also include as **Exhibit 2** to this motion the last communication received from the attorneys for Loiza Ponce notifying as to the foreclosure sale scheduled in the State Court proceeding.

17. The differences evidenced in the documents of reference show that the balances claimed as due to this creditor, even considering as final the aforementioned State Court judgment, are

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considerable and still the supporting evidence joined to this claim indicates that this remains defective.

18. Regarding the reorganization endeavors of this Debtor, management have always remained in search of feasible alternatives to fund a Plan of Reorganization. Within these alternatives it always been considered the sale of the project as a going concern.

19. As was advanced in our motion for reconsideration, a qualified buyer has confirmed its interest in acquiring this property as a going concern and with the interest of continuing operations subject to the restrictive covenants and existing contracts entered with the Puerto Rico Housing Authority.

20. Enclosed rating the and subject to the junior liens and showed interest for the property and this same entity intends to present a formal acquisition proposal for the assets of this debtor.

Refer to **Exhibit 3**.

21. Debtor re-states that if afforded some additional time to now entertain a prospective purchaser, reasonable means for funding the plan may be identified obtained with the transfer of this property as a going concern benefiting all creditors, including Loiza Ponce.

WHEREFORE, the Debtor respectfully requests that this Honorable Court be informed of this Supplement to the Debtor's request for reconsideration of the *Opinion and Order* entered at Docket No. 71 and prays that said Dismissal Order be vacated and set aside in order to allow the continuation of this case as a Chapter 11 proceeding.

NOTICE TO ALL PARTIES: within fourteen (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted

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unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise

CERTIFICATE OF SERVICE

I HEREBY CERTIFY: That on same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to **REBECA CAQUIAS MEJIAS, ESQ.** on behalf of Creditor AUTORIDAD PARA EL FINANCIAMIENTO DE LA VIVIENDA DE PUERTO RICO at notices@rcmlawpr.com; **JORGE I PEIRATS, ESQ.** on behalf of Creditor LOIZA PONCE HOLDING LLC at jpeirats@pmalaw.com; **ALEJANDRO A. SUAREZ CABRERA, ESQ.** on behalf of Creditor State Insurance Fund Corporation at alejandro.suarez@cfse.gov.pr; **US Trustee Office, (Monsita Lecaroz Arribas, Esq.)** at ustpregion21.hr.ecf@usdoj.gov and to the participants appearing in said record

RESPECTFULLY SUBMITTED.

In Guaynabo, Puerto Rico, this 29th day of October of 2019.

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